

REMARKS

Claim 1-25 and 27-28 are currently pending, claim 28 being withdrawn.

Allowable Subject Matter

The Office is thanked for indicating that claims 19, 21-25 and 27 would be allowable if rewritten in independent format.

§ 102(e) - Brusk

Claims 1-18 and 20 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Brusk (USPPN 200/0143262).

In the Response to Arguments section of the Office Action, the Office asserts that Brusk would inherently comprise a cleaning part and/or a bacterial part on separate parts of the tissue because of the disclosure of paragraph [0046] of Brusk.

This is not accurate.

Brusk, in paragraph [0046] discusses that "The hygiene tissue can be used for cleaning and ***simultaneously*** establishing and maintaining a healthy microbial flora on the skin and in the urogenital area. ... The hygiene tissue is impregnated with a suspension of lactic acid producing bacterium in a lipid."

Brusk is describing a one step cleaning process, wherein the hygiene tissue is wiped over the skin/urogenital area to wipe the area clean while simultaneously depositing lactic acid producing bacteria. Accordingly, a cleaning solution, if any, of Brusk is together in the same part as the bacteria.

Thus, the Office has improperly interpreted Brusk to disclose a cleaning part and/or a bacterial part on separate parts of the tissue.

In contrast, the presently claimed invention recites that a part with cleaning liquid is separate and in a different part from a part with the bacterial preparation.

Because the presently claimed tissue has two different parts, the tissue may be used for a two step cleaning process. The cleaning liquid and the bacterial composition are separated to at least two different parts of the hygiene tissue, thereby separating the two functions of the tissue. This allows the use of cleaning liquids which would affect bacterial survival, if not placed in a separate part.

Thus, the design of the hygiene tissue is important for the present invention; the cleaning liquid and the bacterial composition are not mixed on the tissue in order

to keep the cleaning and lactic acid bacteria transferring functions separated. This protects the bacteria from the cleaning liquid so that the cleaning liquid does not interfere with bacterial survival via the presence of any moisture or agents with antimicrobial activity in the cleaning liquid. This is particularly preferable when a water-based cleaning liquid is used, since contact of the bacteria with water decreases bacterial survival.

Brusk does not recognize the need for a cleaning liquid being on a separate/different part of the hygiene tissue from a part with a bacteria/lipid composition. Brusk does not teach or suggest the use of cleaning liquids which may interfere with bacterial survival via the presence of any moisture or agents with antimicrobial activity in the cleaning liquid. Thus, it is improper for the Office to interpret the one step cleaning tissue of Brusk as having a cleaning liquid on a separate/different part of the hygiene tissue from a part with a bacteria/lipid composition.

Accordingly, applicants respectfully request that the rejection of claims 1-18 and 20 as being anticipated by Brusk be withdrawn.

Double Patenting

Claim 1-18 and 20 stand provisionally rejected on the ground of statutory obviousness-type double patenting as being unpatentable over claim 1-9 and 11-22 of copending Application No. 10/318,165.

Applicants note that Application No. 10/318,165 is the application for the Brusk publication asserted above.

As such, applicants highlight that the claims of Application No. 10/318,165 are patentable distinct from the presently claimed invention, as set forth in representative claim 1. The asserted claims of Application No. 10/318,165 related to a hygiene tissue with a bacterial/lipid composition but do not claim two separate/different parts. Moreover, the asserted claims do not claim a cleaning liquid on a separate/different part of the hygiene tissue from a part with a bacteria/lipid composition.

Accordingly, the present claims are patentably distinct from the claims of the Application No. 10/318,165 and applicants request that the rejection of claims 1-27 as being unpatentable over claim 1-9 and 11-22 of copending Application No. 10/317,165 be withdrawn.

Conclusion

For the reasons stated above, it is requested that all the rejections be withdrawn and that this application be allowed in a timely manner.

Should any questions arise in connection with this application or should the Examiner feel that a teleconference with the undersigned would be helpful in resolving any issues pertaining to this application, it is requested that the undersigned be contacted at the number indicated below.

Respectfully submitted,
BUCHANAN INGERSOLL PC

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